

Response to Restriction Requirement
Serial No.: 09/401,004
Filed: September 21, 1999
Page 2

II. Claims 16 to 30, directed to a single benzimidazole compound; and

III. Claims 31 to 34, directed to a method of preparing a benzimidazole.

In response to the restriction, Applicants elect Group II, claims 16 to 30, directed to a single compound.

However, Applicants respectfully traverse the restriction and request that Groups I and II be rejoined.

Applicants note that the library claims of Group I and the single compound claims of Group II are of **identical scope** (covering the same core structure and the same array of radicals). Accordingly, Applicants respectfully submit that there is no reference relevant to Group I that would not also be relevant to Group II. Thus, examination of both groups would not pose an undue burden, while separate examination would result in a substantial duplicative effort.

For example, a reference obviating a library claim would obviate a single compound claim of similar scope. Conversely, a reference obviating a single compound claim would certainly be relevant regarding the library claim of similar scope. Thus, examination of both groups would not pose an undue burden, while separate examination would result in a substantial duplicative effort.

Response to Restriction Requirement
Serial No.: 09/401,004
Filed: September 21, 1999
Page 3

If the Examiner believes a reference relevant to Group I that is not relevant to Group II exists, she is invited to cite it to Applicants.

Finally, Applicants respectfully request that Group III, directed to a method of making a single compound, be rejoined, examined and allowed once subject matter in elected Group II is allowed. See M.P.E.P. sec. 821.04.

B. Regarding the species election.

The Office Action also requires a species election. In response, Applicants elect the core benzimidazole structure shown in claim 16 wherein:

R¹, R² and R⁴ are hydrogen;

R³ is the formula -C(O)NR¹¹R¹², wherein R¹¹ and R¹² are hydrogen;

R⁵ is 3-phenoxyphenyl;

R⁶ is methylmethylen; and

R⁷ and R⁸ are hydrogen.

Applicants believe the elected species reads on claims 16, 17, 18, 19, 20, 21, 22, 25 and 26.